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AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
BY \_\_\_\_\_ DEPUTY

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

PERRY QUINONES,

Plaintiff,

vs

DAVID TONER, THOMAS BURNS,  
JOHN SCHWEIGER, D JOHNSON, J  
PITTS, [FNU] MACARONE, [FNU]  
WILSON, JOHN AND JANE DOES 1 – 10,  
and the CITY OF SEATTLE,

Defendants

NO

**C02-0007R**

COMPLAINT FOR DAMAGES FOR  
DEPRIVATION OF FEDERALLY  
PROTECTED RIGHTS AND  
RELATED TORTIOUS ACTS

**JURY DEMAND**

**COMPLAINT**

**Introduction**

1. This is an action for money damages brought pursuant to 42 U S C §§ 1983 and 1988, and the Fourth and Fourteenth Amendments to the United States Constitution, and under the common law of the State of Washington, against David Toner, Serial No 5517, Thomas Burns, Serial No 5438, John Schweiger, Serial No 5177, D Johnson, Serial No 5836, J Pitts, Serial No 5454, Officer Macarone, Serial No 6112, Sergeant Wilson, Serial

COMPLAINT FOR DAMAGES FOR  
DEPRIVATION OF FEDERALLY  
PROTECTED RIGHTS - 1

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**ORIGINAL**

# 304229

1 No 4069, and John Does 1 – 10, all police officers of the City of Seattle, in their individual  
2 capacities, and against the City of Seattle Jurisdiction is based upon 28 U S C §§ 1331 and  
3 1343, and on the pendent jurisdiction of this Court to entertain claims arising under state  
4 law

5 2. It is alleged that the individual police officer defendants made an unreasonable  
6 seizure of the person and property of Perry Quinones, violating his rights under the Fourth  
7 and Fourteenth Amendments to the United States Constitution, and that these defendants  
8 assaulted and battered Perry Quinones and unlawfully converted \$100 of his money It is  
9 further alleged that these violations and torts were committed as a result of policies and  
10 customs of the City of Seattle

11 **Parties**

12 3. Perry Quinones is a thirty-six-year-old man who has resided at all material times  
13 in Seattle, Washington

14 4. The defendant officers were at all times relevant to this complaint duly appointed  
15 and acting officers of the police department of the City of Seattle, acting under color of law,  
16 to wit, under color of the statutes, ordinances, regulations, policies, customs and usages of  
17 the State of Washington and/or the City of Seattle

18 5. The City of Seattle, Washington, is a municipal corporation and the public  
19 employer of the defendant officers

20 **Facts**

21 6. On or about January 4, 2001, at approximately 7 15 a m , Perry Quinones was  
22 walking in the area of Second Avenue and Virginia Street in downtown Seattle, on his way to  
23 the Millionair Club Charity organization

1           7. Along his way, Mr Quinones stopped briefly to ask an individual he met on the  
2 street where he might be able to buy a breakfast sandwich

3           8. Shortly after Mr Quinones stopped to speak to this individual, defendant police  
4 officers Toner, Burns, Schweiger, Johnson, and Macarone descended upon Mr Quinones,  
5 and one or more of them ordered him to stop and put his hands in the air Mr Quinones  
6 complied with these commands

7           9. One or more of the officers identified in Paragraph 8 frisked Mr Quinones,  
8 seized and rummaged through his wallet, and handcuffed him

9           10. Officer Macarone took a \$100 bill from Mr Quinones' wallet and never returned  
10 it

11           11. Mr Quinones was taken in custody to the West Precinct of the Seattle Police  
12 Department, where he was detained

13           12. Mr Quinones was subjected to a strip search at the precinct, conducted by  
14 defendant Pitts

15           13. Mr Quinones was physically forced to have photographs taken of him at the  
16 precinct Defendant Wilson and two other unknown male officers held Mr Quinones  
17 against a wall while defendant Macarone took the photographs

18           14. When Mr Quinones tried to passively resist having his photograph taken, five or  
19 six male officers, some or all of whom are the identified defendants, physically assaulted him,  
20 kicking him, pulling his hair, stomping on his right hand, pulling his right thumb back  
21 against his hand, and putting him in a chokehold almost to the point of losing  
22 consciousness

1           15. John Does 1 – 10, other officers at the precinct as yet unidentified, looked on  
2 from an adjacent room as Mr Quinones was being assaulted and did nothing to stop the  
3 assault

4           16. Eventually Mr Quinones was released from the precinct

5           17. At no time during the events described above was Mr Quinones intoxicated,  
6 incapacitated, a threat to the safety of himself or others, or disorderly He had not  
7 committed any criminal offenses

8           18. The defendant police officers had no warrant for Mr Quinones' arrest, no  
9 probable cause for his arrest and no legal cause or excuse to seize or search Mr Quinones'  
10 person

11           19. The defendant police officers had no warrant for the seizure of Mr Quinones'  
12 \$100 bill, no probable cause for its seizure and no legal cause or excuse to seize the money

13           20. At all times during the events described above, the defendant police officers were  
14 engaged in a joint venture The individual officers assisted each other in performing the  
15 various actions described and lent their physical presence and support and the authority of  
16 their office to each other during the said events

17           21. As a direct and approximate result of the said acts of the defendant officers, Mr  
18 Quinones suffered the following injuries and damages

- 19           a. Violation of his constitutional rights under the Fourth and Fourteenth  
20 Amendments to the United States Constitution to be free from an  
21 unreasonable search and seizure of his person and property,  
22           b. Loss of his physical liberty, and  
23           c. Physical pain and suffering and emotional trauma and suffering  
24

22. The actions of the defendant officers violated the following clearly established and well settled federal constitutional rights of Mr. Quinones

- a. Freedom from the unreasonable seizure of his person and property, and
- b. Freedom from the use of excessive, unreasonable and unjustified force against his person

**COUNT I**  
**42 U.S.C. § 1983 Against Individual Defendants**

23. Paragraphs 1 through 22 are incorporated herein by reference as though fully set forth

24. Plaintiff Perry Quinones claims damages for the injuries set forth above under 42 U S C § 1983 against defendants Toner, Burns, Schweiger, Johnson, Pitts, Macarone, Wilson, and John Does 1 – 10 for violation of his constitutional rights under color of law

**COUNT II**  
**Assault and Battery Against Individual Defendants**

25. Paragraphs 1 through 22 are incorporated herein by reference as though fully set forth

26. Defendants Wilson, Toner, Burns, Schweiger, Johnson, Pitts and/or John Does  
1 – 10 assaulted and battered plaintiff Perry Quinones

27. As a result of this assault and battery, Mr Quinones suffered damages as aforesaid

**COUNT III**  
**False Arrest and Illegal Imprisonment Against Individual Defendants**

28. Paragraphs 1 through 22 are incorporated herein by reference as though fully set forth

3           **30.** As a result of this false arrest and illegal imprisonment, plaintiff Perry Quinones  
4       suffered damages as aforesaid

7 31. Paragraphs 1 through 22 are incorporated herein by reference as though fully set forth

9 | 32. Defendant Macarone illegally appropriated a \$100 bill rightfully owned and  
| possessed by plaintiff Perry Quinones

33. As a result of this conversion, plaintiff Perry Quinones suffered damages as  
aforesaid

4 34. Paragraphs 1 through 22 are incorporated herein by reference as though fully set  
5 forth

35. Prior to January 4, 2001, the City of Seattle developed and maintained policies or customs exhibiting deliberate indifference to the constitutional rights of persons in Seattle, which caused the violation of Perry Quinones' rights

9                   **36.** It was the policy and/or custom of the City of Seattle to inadequately and  
10 improperly investigate citizen complaints of police misconduct, and acts of misconduct were  
11 instead tolerated by the City of Seattle

37. It was the policy and/or custom of the City of Seattle to inadequately supervise  
and train its police officers, thereby failing to adequately discourage further constitutional

violations on the part of its police officers. The City did not require appropriate in-service training or re-training of officers who were known to have engaged in police misconduct

38. As a result of the above described policies and customs, police officers of the City of Seattle, including the defendant officers, believed that their actions would not be properly monitored by supervisory officers and that misconduct would not be investigated or sanctioned, but would be tolerated

39. The above described policies and customs demonstrated a deliberate indifference on the part of policymakers of the City of Seattle to the constitutional rights of persons within the city, and were the cause of the violations of Mr. Quinones' rights alleged herein

#### RELIEF REQUESTED

WHEREFORE, the plaintiff requests that this Court

- a. Award compensatory damages to the plaintiff against the defendants, jointly and severally,
- b. Award reasonable attorneys' fees and costs of this action to the plaintiff, and
- c. Award such other and further relief as this Court may deem appropriate

#### JURY TRIAL DEMANDED

Plaintiff demands a trial by jury pursuant to the Seventh Amendment to the United States Constitution and Federal Rule of Civil Procedure 38

Dated this 2<sup>nd</sup> day of January, 2002

SMITH ROBERSON HUGHES & WALSH

*Jacqueline K. Walsh\**

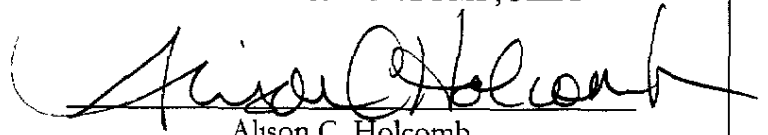
Jacqueline K. Walsh  
Counsel for Plaintiff

\* by *Trish Holcomb*  
per email authorization

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